**United States District Court**

For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT

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FOR THE NORTHERN DISTRICT OF CALIFORNIA

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8   ROSEANNE SAKAMOTO,                              No. C 03-5499 SI

9              Plaintiff,                           **ORDER DENYING PLAINTIFF'S
                                                    REQUEST FOR ADMINISTRATIVE**
10      v.                                          **LEAVE**

11   STEPHEN JOHNSON, Administrator, U.S.
     Environmental Protection Agency,

12

13              Defendant.
                                            /

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15          Plaintiff has filed a motion "to permit plaintiff administrative leave to address and prepare

16   matters related to this case."  (Docket No. 383).[1]  Plaintiff states that she would suffer economic

17   hardship if she was not permitted "reasonable" administrative leave – i.e., time off work – to address

18   the instant case and prepare for the upcoming trial.

19          Defendant opposes the motion, and has submitted, *inter alia*, the declaration of Eugenia

20   McNaughton, which states that plaintiff was out of the office on a full-time basis between April 2006

21   and October 2006.  *See* McNaughton Decl. ¶ 6.  According to that declaration, during that time plaintiff

22   used all of her accrued annual leave and sick leave, one month of leave without pay, the maximum 200

23   hours of leave to which she was entitled from the EPA's "leave bank," and approximately ten of the

24   twelve weeks of leave granted under the Family and Medical Leave Act.  McNaughton states that during

25   plaintiff's leave, the Quality Assurance Office (where plaintiff works) was required to extend the

26   schedules of technical audits and other staff were asked to take on plaintiff's assignments.  *Id.* ¶ 8.

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28          [1]  Pursuant to Civil Local Rule 7-1(b), the Court determines that the motion is suitable for
     resolution without oral argument.

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1   McNaughton also states that any additional absences by plaintiff would cause further delays in the

2   office's ability to meet schedules, increase the workload on other staff, and prevent the office from

3   proceeding with training and work in new areas. *Id.* ¶ 9.

4         Plaintiff has not cited any authority holding that she is entitled to administrative leave, and

5   indeed there is no language in either Title VII or the regulations requiring that such leave be provided.

6   Plaintiff's reliance on 29 C.F.R. Section 1614.605(b) is unavailing because that regulation governs leave

7   in connection with the preparation of E.E.O.C. complaints, not federal actions.  *See* 29 C.F.R.

8   § 1614.605(b) ("If the complainant is an employee of the agency, he or she shall have a reasonable

9   amount of official time, if otherwise on duty, to prepare the complaint and to respond to agency and

10  EEOC requests for information.").

11        Plaintiff cites a single district court case, *Mitchell v. Baldridge*, 662 F. Supp. 907 (D.D.C. 1987),

12  in which the court ordered that a Title VII plaintiff should be allowed administrative leave for discovery

13  and pretrial preparation.  As an initial matter, *Mitchell* is not binding on this Court.  Moreover,

14  subsequent courts have noted that *Mitchell* is "narrow in application" because Mitchell had prevailed

15  on appeal and the administrative leave was granted on remand. *Moore v. Summers*, 113 F. Supp. 2d 5,

16  29 (D.D.C. 2000); *see also Shelborne v. Runyon*, 1997 WL 527352, at *17 (D.D.C. Aug. 21, 1997)

17  (noting narrowness of *Mitchell*'s holding).

18        In sum, plaintiff has not identified any authority showing that she is entitled to administrative

19  relief; at most, plaintiff's request is subject to the Court's discretion. The record does not support a grant

20  of administrative leave in light of plaintiff's recent extended leave and the hardships such a leave would

21  impose on the Quality Assurance Office.  For the foregoing reasons, the Court hereby DENIES

22  plaintiff's motion. No motions for reconsideration of this order shall be filed or accepted.

23        **IT IS SO ORDERED.**

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25  Dated: January 11, 2007

26                                                    SUSAN ILLSTON
                                                      United States District Judge

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